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18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA
20 SAN FRANCISCO DIVISION

21 BARBARO TECHNOLOGIES, LLC.,

22 Plaintiff,

v.

23 NIANTIC, INC.,

Defendant.

24 Case No. 3:18-cv-02955-RS

25 JOINT MOTION AND ORDER FOR
26 ENTRY OF FINAL JUDGMENT

1 On January 30, 2018, Barbaro Technologies, LLC (“Barbaro”) filed its Complaint against
 2 Niantic, Inc. (“Niantic”) for infringement of U.S. Patent Nos. 7,373,377 (“’377 Patent”) and
 3 8,228,325 (“’325 Patent”) (collectively “the Patents-in-Suit”) in the United States District Court
 4 for the Central District of California. Dkt. No. 1.

5 On April 5, 2018, after the case was transferred to the United States District Court for the
 6 Northern District of California, Niantic filed its Answer and defenses to Barbaro’s Complaint.
 7 Niantic did not assert any counterclaims. Dkt. No. 24.

8 On September 6, 2018, Barbaro served its Amended Asserted Claims and Preliminary
 9 Infringement Contentions identifying the asserted claims as claims 1-3, 5-8, 10-12, 15-17, 19, 24-
 10 25 of the ’377 Patent and claims 1, 3, and 5-6 of the ’325 Patent. Barbaro later withdrew claim 5
 11 of the ’325 Patent as an asserted claim. *See* Dkt. No. 120, Plaintiff’s Response in Opposition to
 12 Defendant’s Rule 12(c) Motion for Judgment on Pleadings of Invalidity Under 35 U.S.C. 101, at
 13 2, n.2; Dkt. No. 123, Order Granting Motion for Judgment on the Pleadings at 1, n.1. The
 14 “Asserted Claims” in this case, therefore, are: claims 1-3, 5-8, 10-12, 15-17, 19, 24-25 of the ’377
 15 Patent and claims 1, 3, and 6 of the ’325 Patent.

16 On February 12, 2020 the Court issued its Order Construing Claims, providing its
 17 construction of the terms recited in the Asserted Claims. Dkt. No. 116. In particular, the Court
 18 determined that the claim term “digital logic library,” recited in all independent claims of the ’377
 19 Patent, is indefinite. *Id.* at 8. Because this claim term is found in each independent claim of the
 20 ’377 Patent, it is also incorporated in all the asserted claims of the ’377 Patent.

21 On April 23, 2020 Niantic filed a Motion for Judgment on the Pleadings of Invalidity
 22 Under 35 U.S.C. § 101 on the ’325 Patent. Dkt. No. 119.

23 On May 21, 2020, the Court granted Niantic’s Motion for Judgment on the Pleadings,
 24 finding all asserted claims of the ’325 Patent invalid under 35 U.S.C. § 101 (“Order Granting
 25 Motion for Judgment on the Pleadings”). Dkt. No. 123.

26 On June 2, 2020, Barbaro filed a Motion for Leave to File a Motion for Reconsideration
 27 of the Court’s Order Granting Motion for Judgment on the Pleadings, and the Court issued an
 28 Order requesting responsive briefing on June 4, 2020. Dkt. No. 125.

1 On August 11, 2020, the Court denied Barbaro's Motion for Reconsideration. Dkt. No.
2 129.

3 Because the Court's orders have now disposed of all Asserted Claims, Barbaro and
4 Niantic jointly request that the Court enter a final judgment pursuant to Federal Rule of Civil
5 Procedure 58(d) in favor of Niantic and against Barbaro as follows:

- 6 1. Claims 1-3, 5-8, 10-12, 15-17, 19, and 24-25 of U.S. Patent No. 7,373,377 are
7 invalid.
- 8 2. All of Barbaro's allegations of infringement of U.S. Patent No. 7,373,377 are
9 dismissed with prejudice.
- 10 3. Claims 1, 3, and 6 of U.S. Patent No. 8,228,325 are invalid.
- 11 4. All of Barbaro's allegations of infringement of U.S. Patent No. 8,228,325 are
12 dismissed with prejudice.

13 A proposed form of judgment accompanies this Motion.

14 Barbaro reserves all appellate rights arising from this Action including, but not limited to,
15 the right to appeal the Order Construing Claims (and the right to challenge the construction of any
16 disputed claim terms on appeal), the Order Granting Motion for Judgment on the Pleadings, and
17 the Order Denying Barbaro's Motion for Reconsideration. Barbaro reserves all rights to oppose
18 by submission any Motion by Niantic to seek fees and costs.

19 Niantic reserves all appellate rights arising from this Action including, but not limited to,
20 the right to seek affirmance of final judgment on the grounds in the Court's Orders or on alternate
21 grounds. Niantic reserves all rights to seek fees and costs.

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1 DATED: October 6, 2020

DUNLAP CODDING, PC

3 By: /s/ Jordan A. Sigale

4 Jordan A. Sigale, Illinois ARDC No. 6210047

5 **ATTORNEYS FOR PLAINTIFF BARBARO
TECHNOLOGIES, LLC.**

6 DATED: October 6, 2020

O'MELVENY & MYERS LLP

8 By: /s/ Luann L. Simmons

9 Luann L. Simmons

10 **ATTORNEYS FOR DEFENDANT
NIANTIC, INC.**

12 **CERTIFICATE OF SERVICE**

13 I certify that all counsel of record is being served on October 6, 2020, with a copy of this
14 document via the Court's CM/ECF system.

15 /s/ Jordan A. Sigale

JORDAN A. SIGALE

17 **FILER'S ATTESTATION**

18 Pursuant to Local Rule 5-1(i)(3), I hereby attest that the other signatory listed, on whose
19 behalf the filing is submitted, concurs in the filing's content and has authorized the filing.

20 /s/ Jordan A. Sigale

JORDAN A. SIGALE

FINAL JUDGMENT

Before the Court is the Joint Motion for Entry of Final Judgement filed by Barbaro Technologies, LLC (“Barbaro”) and Niantic, Inc. (“Niantic”) in the captioned case. For the reasons stated in the Joint Motion, the Court’s Order Construing Claims (Dkt. No. 116), the Court’s Order Granting Motion for Judgment on the Pleadings (Dkt. No. 123), the Court’s Order Denying Barbaro’s Motion for Reconsideration (Dkt. No. 129), and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT judgment be and is hereby entered in favor of Defendant Niantic, Inc. and against Plaintiff Barbaro Technologies, LLC (“Barbaro”) as follows:

1. Claims 1-3, 5-8, 10-12, 15-17, 19, and 24-25 of U.S. Patent No. 7,373,377 are invalid.
 2. All of Barbaro's allegations of infringement of U.S. Patent No. 7,373,377 are dismissed with prejudice.
 3. Claims 1, 3, and 6 of U.S. Patent No. 8,228,325 are invalid.
 4. All of Barbaro's allegations of infringement of U.S. Patent No. 8,228,325 are dismissed with prejudice.

Furthermore, Niantic may seek fees and costs, and Barbaro may oppose by submission any Motion by Niantic to seek fees and costs.

IT IS SO ORDERED

DATED: October 14, 2020

A handwritten signature in blue ink that reads "Richard Schaefer". The signature is fluid and cursive, with a prominent 'R' at the beginning.